IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

TUESDAY, THE 4TH SEPTEMBER 2007 / 13TH BHADRA 1929

AS.No. 285 of 2000(B)

OS.408/1988 of PRL.SUB COURT,IRINJALAKUDA
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APPELLANT/7TH DEFENDANT:

SARAMMA, D/O.KODEKKADAN YACOB,
CHETTIPARAMBU, MANAVALASSERY VILLAGE,
MUKUNDAPURAM TALUK.

BY ADV. SRI.K.G.BALASUBRAMANIAN

RESPONDENTS:

1.ROSY, D/O.LATE KODEKKADAN DEVASSY, IRINJALAKUDA DESOM,
MANAVALASSERY VILLAGE, MUKUNDAPURAM TALUK.

2.LOUIS, S/O. -DO-

3.SELINA, D/O. -DO-

4.CICILY, W/O.THOWNDASSERY VARGHESE AND D/O.KONIKKARA
VARGHESE, -DO-

5.PAULY, SISTER OF 4TH RESPONDENT, -DO-

6.MARY, SISTER OF 5TH RESPONDENT, -DO-

7.CHARLI @JACOB S/O.THOMAS, PULLELI HOUSE, MURINGOOR,
VADAKKUM MURI VILLAGE, MUKUNDAPURAM TALUK.

8.STEPHEN, S/O.LATE KODEKKADAN THOMAS, -DO-

9.ALPHONSA, W/O.PALAMATATH PAUL,
CHARNAKUNNU DESOM.

10.VARGHESE, S/O.MOORKANATTUKARAN CHAKKU,
PARAPPULKARA VILLAGE, DESOM-DO-TALUK.

11.MARY JOSEPH, W/O.JOSEPH, -DO-

12. A.J.ANTONY, -DO-

13.SANTHA VINCENT, D/O. -DO-

14.ANNIE JOSEPH, D/O. -DO-

15.KUMARY MOHAN, D/O. -DO-

16.LILLY PAULSON, D/O. -DO-

17.BABI MANI, D/O.-DO-

18.FLORY PAUL, W/O. PAUL, -DO-

19. KAVITHA PAUL, D/O. -DO-

20.KELVIN, S/O. -DO-

21.JACOB, S/O.LATE KODEKKADAN YACOB @ JACOB, CHETTIPARAMBU DESOM, MANAVALASSERY VILLAGE, MUKUNDAPURAM TALUK.

22.FRANCIS, S/O. -DO-

23.THOMAS, S/O. -DO-

24.DANIEL @ DANI, S/O. -DO-

25.GEORGE, S/O. -DO-

26.ANNIE, D/O. -DO-

27.MARIAMKUTTY, D/O. -DO-

28.BABY @ BARABARA, D/O. -DO-

29.ROBERT, S/O.LATE KODEKKARAN THOMAS, -DO-

30. VARGHESE, S/O. -DO-

31.ROSY, D/O. -DO-

32. GEORGE, S/O. KONIKKARA VARGHESE, -DO-
PRESENT ADDRESS : GEORGE VARGHESE, VES COLLEGE OF ARTS SCIENCE AND COMMERCE SOCIETY, CHEMBUR, BOMBAY.

33.ANDREWS, S/O. -DO- VARGHESE.

34.SEBASTIAN, S/O. -DO- VARGHESE -DO-

35.JOHN, S/O. -DO-

36.JOSE, S/O.PULLELI THOMAS, MURINGOOR DESOM, MURINGOOR VADAKKUMMURY VILLAGE, -DO-

37.JOHNSON, BROTHER OF 36TH DEFENDANT, -DO-

38.DANIEL, BROTHER OF 34TH DEFENDANT JOHNSON, -DO-

39.RUBY, SISTER OF 36TH DEFENDANT, -DO-

40.ANNIES, SISTER OF 38TH DEFENDANT, DANIEL, -DO-

41.TOMY, BROTHER OF 35TH DEFENDANT JOHN, -DO-

42.SHOBY BABY R. NO.12 ASTHAVINAYAK, BALDYKISAN NAGAR WAGLE ESTATE, THANA, MAHARASHTRA-400 604.

43.J.JOHN, P.B.NO.32690 DUBAI, U.A.E.

THIS APPEAL SUITS HAVING BEEN FINALLY HEARD ON 04/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KURIAN JOSEPH & HARUN-UL-RASHID, JJ.

A.S.No.285 of 2000

Dated 4th September, 2007.

J U D G M E N T

Kurian Joseph, J.

This appeal arises from the preliminary decree and judgment in O.S.408/1988 on the file of the Subordinate Judge's Court, Irinjalakkuda. The appellant is the 7th defendant in the suit. She claimed that the property is not partible since the same is covered by the will executed by one Kochudevassy. In the judgment in M.F.A.No.1031/94 we have confirmed the findings of the court below that the appellant/plaintiff has failed to prove the execution of the will. Sri.Balasubramanian contended that the allotment of shares is not proper. But it is seen from the proceedings that there was no dispute regarding the statement filed on behalf of the counsel for the plaintiff on the allotment of shares. According to the appellant, it is only a bona fide

mistake on the part of the appellant. If it is a matter of mistake, it is for the appellant to bring it to the notice of the trial court. There is no merit in the appeal. It is hence dismissed.

KURIAN JOSEPH, JUDGE.

HARUN-UL-RASHID, JUDGE.

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KURIAN JOSEPH &

HARUN-UL-RASHID, JJ

A.S. NO.285 OF 2000

J U D G M E N T

Dated 4th September, 2007.